

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

UNITED STATES OF AMERICA)	CR No.: 3:09-500-JFA
)	
v.)	
)	ORDER
FREDIBERTO PINEDA)	FOR EVIDENTIARY HEARING
)	
_____)	

This matter is before the court upon the motion of the defendant, Frediberto Pineda, to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. Included among the claims is the allegation that the defendant requested that his attorney take an appeal, and the attorney failed to do so. The government has filed a motion for summary judgment. Fourth Circuit precedent requires that an evidentiary hearing be held when there is a factual dispute as to whether a client requested his lawyer to appeal. *Becton v. Barnett*, 920 F.2d 1190 (4th Cir. 1990).

The court will conduct a hearing on the motion on **Monday, September 24, 2012** at **10:45 a.m.** in Courtroom IV of the Matthew J. Perry, Jr. United States Courthouse, 901 Richland Street, Columbia, South Carolina, 29201.

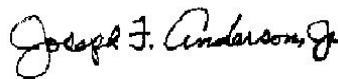
The United States Marshal and the Federal Bureau of Prisons shall transport the defendant to Columbia, South Carolina at least one week prior to the above referenced hearing so that new counsel may consult with the defendant in preparation for the hearing. The defendant is directed to bring to this hearing any and all supporting documentation he has in his possession regarding his case.

The Clerk shall serve a copy of this order upon attorney Robert Hallman, defendant's former counsel, so that he may attend the hearing to provide testimony, if necessary, on the issue presented.

The court appoints attorney Joseph N. Connell to represent the defendant for the limited purpose of representing the defendant during the upcoming evidentiary hearing pursuant to Rule 8(c) of the Rules Governing § 2255 Cases.

IT IS SO ORDERED.

July 31, 2012
Columbia, South Carolina

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.
United States District Judge